NPT/CONF.2015/PC.III/WP.4

Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

12 March 2014

Original: English

Third session
New York, 28 April-9 May 2014

The inalienable right to develop research, production and uses of nuclear energy for peaceful purposes

Working paper submitted by the Group of Non-Aligned States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

1. The Group of Non-Aligned States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) emphasizes once more the significance of article IV of the Treaty on the inalienable right of all the parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II of this Treaty, the realization of which constitutes one of the fundamental objectives of the Treaty. The Group stresses that, as stipulated in that article, nothing in the Treaty shall be interpreted as affecting this inalienable right. The Group further underscores the importance of promoting international cooperation, without discrimination and in conformity with articles I and II of the Treaty, for the full realization of this inherent right and strongly calls upon all States parties to the Treaty to fully fulfil their legal obligations to respect this inalienable right and its full realization.

2. The Group of Non-Aligned States Parties to the Treaty further reaffirms the importance of the right of all States parties to participate in the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Moreover, the Group stresses the importance of full compliance with the obligations under article IV (2) of the Treaty, which stipulates that Parties to the Treaty in a position to do so shall also cooperate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States party to the Treaty, with due consideration for the needs of the developing areas of the world.

3. The Group of Non-Aligned States Parties to the Treaty firmly believes that the full, effective and non-discriminatory implementation of article IV of the NPT plays a crucial role in achieving the object and purpose of the Treaty. In this regard, the Group also firmly believes that any measure aiming at hampering, fully or partly, the fullest exercise of the inalienable rights under article IV of the Treaty, would seriously jeopardize the delicate balance between rights and obligations of States

14-26218 (E) 200314

Please recycle

parties, in contravention with the Treaty's object and purpose, and would widen the gap between developed and developing countries in this field.

4. The Group of Non-Aligned States Parties to the Treaty recalls that the statute of the International Atomic Energy Agency (IAEA) mandates the Agency, in support of the full realization of the inalienable right under article IV of the NPT, to make provision, in accordance with the statute, for materials, services, equipment, and facilities to meet the needs of research on, and development and practical application of, atomic energy for peaceful purposes, including the production of electric power, with due consideration for the needs of the developing areas of the world. To ensure the realization of these goals, all States parties, particularly developed States, shall extend their assistance, as requested by States parties that are States members of IAEA, in the provision of nuclear equipment, material, technology and scientific and technological information for peaceful purposes, with a view to achieving the maximum benefits and applying pertinent elements of sustainable development in their activities for peaceful purposes.

5. In this connection, the Group of Non-Aligned States Parties to the Treaty recognizes the major and important role of IAEA in assisting States parties, particularly developing States, in planning for and using nuclear science and technology. The Group stresses the importance of nuclear knowledge-sharing and the transfer of nuclear technology to developing countries to sustain and further enhance their scientific and technological capabilities, thereby also contributing to their socioeconomic development. Moreover, the Group emphasizes that the activities of IAEA in the field of technical cooperation, nuclear power and non-power applications would contribute, in an important way, to meeting energy needs, improving human health, including the application of nuclear technology in cancer therapy, combating poverty, protecting the environment, developing agriculture, managing the use of water resources and optimizing industrial processes. The Group further highlights that these activities, as well as bilateral and other multilateral cooperation, would contribute to achieving the objectives set forth in article IV of the Treaty.

6. The Group of Non-Aligned States Parties to the Treaty stresses that the IAEA Technical Cooperation Programme, as the main vehicle for the transfer of nuclear technology for peaceful purposes, should continue to be formulated and implemented in accordance with the statute of IAEA and the agreed guiding principles as contained in INFCIRC/267, as well as the decisions of IAEA policymaking organs. The Group reiterates that the current guidelines and criteria for the selection of technical cooperation projects are robust and effective, and that no additional criteria should be imposed for fulfilling the above-mentioned objectives.

7. The Group of Non-Aligned States Parties to the Treaty recalls that, in 2005, IAEA and its then-Director General, Mohamed ElBaradei, were awarded the 2005 Nobel Peace Prize, and reiterates the importance it attaches to the impartiality, professionalism and integrity of the Agency. While expressing its full confidence in that impartiality and professionalism, the Group strongly rejects any attempt by any State to politicize the work of the Agency, including its technical cooperation programme, in violation of its statute, as well as any pressure or interference in its activities that could jeopardize its efficiency and credibility. In this connection, the Group also expresses its rejection of any attempt by any State party to use the IAEA Technical Cooperation Programme as a tool for political purposes, which would be

in violation of the statute of the Agency. The Group reaffirms that choices and decisions of each State party to the Treaty in the field of peaceful uses of nuclear energy should be fully respected without jeopardizing its policies or international cooperation agreements and arrangements for peaceful uses of nuclear energy and its fuel-cycle policies.

8. In this regard, while recognizing that a diverse portfolio of energy sources will be needed to allow access to sustainable energy and electricity resources in all regions of the world, and that States parties may pursue different ways to achieve their energy security and climate protection goals, the Group of Non-Aligned States Parties to the Treaty once again acknowledges and reaffirms that each State party, in line with its national requirements and in accordance with its rights and obligations under the Treaty, has a sovereign right to define its national energy and fuel-cycle policies, that, inter alia, includes an inalienable right to develop, for peaceful purposes, a full national nuclear fuel cycle.

9. The Group of Non-Aligned States Parties to the Treaty takes note of the adoption by the IAEA Board of Governors, through a vote, in 2010 and 2011, of three proposals of assurance of supply mechanisms within the framework of the multilateral approaches to the nuclear fuel cycle. In the view of the Group, the multilateral approaches to the nuclear fuel cycle should be economically viable, sustainable, non-discriminatory, predictable and transparent under the auspices of IAEA and any other possible regional and multilateral forums. The Group emphasizes that all technical, legal, political and economic implications and complexities surrounding this sensitive matter shall be fully taken into account. The Group also stresses that any decision on proposals regarding multilateral approaches to the nuclear fuel supply shall be made by consensus following wide, integral, comprehensive and transparent multilateral consultations, with the participation of all IAEA member States and taking into account the interests of all its member States. Furthermore, the Group strongly emphasizes that any proposal from IAEA must be consistent with its statute, without any prejudice to the inalienable right of States parties to the Treaty to develop research, production and use of nuclear energy and sciences, in all its aspects, for peaceful purposes, and if they so decide, to develop a full national nuclear fuel cycle, according to its article IV.

10. In this context, the Group of Non-Aligned States Parties to the Treaty rejects, in principle, any attempt aimed at discouraging certain peaceful nuclear activities on the grounds of their alleged "sensitivity." The Group further underlines that concerns related to nuclear proliferation shall not, in any way, restrict the inalienable right of any State party to develop all aspects of nuclear science and technology for peaceful purposes, without discrimination, as stipulated in article IV of the Treaty. In this regard, the Group expresses its concern that some States parties have set conditions such as concluding and bringing into force an additional protocol on nuclear export in contravention of article IV of the Treaty, and calls upon those States parties to promptly remove any such condition.

11. The Group of Non-Aligned States Parties to the Treaty underlines that all the parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. In this regard, the Group stresses particularly the obligation of developed countries to promote the legitimate need of the developing countries to nuclear energy by fully respecting this right with

a view to achieving the widest benefits and applying pertinent elements of sustainable development in their activities.

12. The Group of Non-Aligned States Parties to the Treaty underlines the contribution that uses of nuclear energy can make to progress in general and to helping overcome the technological and economic disparities between developed and developing States parties to the Treaty in particular. The Group firmly believes that, as a fundamental principle, in all activities designed to promote the peaceful uses of nuclear energy, preferential treatment shall be given to the non-nuclear-weapons States parties to the Treaty, particularly taking into account the needs of developing countries.

13. The Group of Non-Aligned States Parties to the Treaty strongly rejects, and calls for the immediate removal of, any restrictions or limitations posed on the peaceful uses of nuclear energy, including restrictions on exports to other States parties of nuclear material, equipment and technology for peaceful purposes, since such restrictions or limitations are inconsistent with the provisions and object and purpose of the Treaty. In this regard, the Group stresses that the technical cooperation and assistance provided by IAEA in meeting the needs of its member States for material, equipment and technology for the peaceful uses of nuclear energy shall not be subject to any political, economic, military or other conditions incompatible with the provisions of its statute.

14. In the view of the Group, transfers of nuclear technology and international cooperation among States parties in conformity with the Treaty shall be supported and pursued in good faith without discrimination. The elimination of constraints inconsistent with the requirements of the Treaty would ensure that article IV of the Treaty is fully implemented with regard to the facilitation of transfer of nuclear material, equipment and technological information for peaceful purposes among the States parties.

15. The Group of Non-Aligned States Parties to the Treaty emphasizes that the Treaty does not prohibit the transfer or use of nuclear technology, equipment or material for peaceful purposes based on their sensitivity but stipulates only that such technology, equipment and material must be subject to full-scope IAEA safeguards. In the view of the Group, provisions of article IV of the Treaty are explicit in that regard, leaving no room for reinterpretation or setting conditions for the peaceful uses of nuclear energy by non-nuclear-weapon States. The Group is of the view that any interpretation that is used as a pretext to prevent the transfer of nuclear technology for peaceful purposes is inconsistent with the objectives of the Treaty and, therefore, the unimpeded and non-discriminatory transfer of nuclear technology for peaceful purposes must be ensured.

16. The Group of Non-Aligned States Parties to the Treaty firmly believes that fostering the development of the peaceful uses of nuclear energy by providing a framework of confidence and cooperation within which those uses can take place, is one of the fundamental objectives of the Treaty. Moreover, the Group emphasizes that cooperation to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world is the core objective enshrined in the statute of IAEA. Accordingly, the Group strongly encourages all States parties to actively cooperate, among themselves and through IAEA, in the peaceful uses and applications of nuclear energy, including through international technical cooperation.

17. The Group of Non-Aligned States Parties to the Treaty emphasizes that proliferation concerns are best addressed through multilaterally negotiated, universal, comprehensive and non-discriminatory agreements. The Group further emphasizes that non-proliferation control arrangements should be transparent and open to participation by all States and should ensure that they do not impose restrictions on access by developing countries to material, equipment or technology for peaceful purposes, which such countries require for their continued development. Furthermore, such arrangements must pursue and implement, without exception, the condition of adherence to IAEA comprehensive safeguards and to the Treaty as a condition for the supply to or cooperation with States not party to the Treaty.

18. The Group of Non-Aligned States Parties to the Treaty remains deeply concerned about the ability of certain States not party to the Treaty to obtain, in particular from some nuclear-weapon States, nuclear materials, technology and know-how to develop nuclear weapons. The Group strongly calls for the enforcement, without exception or further delay, of the total and complete prohibition, as stipulated in the Treaty, of the transfer of all nuclear-related equipment, information, material and facilities, resources or devices and the extension of assistance in the nuclear, scientific or technological fields to States not party to the Treaty.

19. The Group of Non-Aligned States Parties to the Treaty underscores that IAEA, under its statutory obligations, pursues the goals of technical cooperation in peaceful applications of nuclear energy as one of the three pillars of its activities. In order to meet the objectives of technical cooperation for peaceful purposes, as enshrined in the statute of IAEA and in the Treaty, IAEA has to maintain a balance between technical cooperation and other activities. The Group believes that all States parties to the Treaty that are States members of IAEA have to ensure that the Technical Cooperation Programme remains firm and sustainable through sufficient, assured and predictable financial and human resources. In this regard, the efficacy of the Programme can best be achieved by ensuring that its formulation and strategies are in strict accordance with the needs and the requests of developing countries.

20. The Group of Non-Aligned States Parties to the Treaty affirms the need to strengthen the radiological safety and protection systems at facilities utilizing radioactive materials and at radioactive waste management facilities, including the safe transportation of these materials. The Group reaffirms the need to strengthen existing international regulations relating to the safety and security of transportation of such materials. While reiterating the need to take necessary measures to prevent any dumping of nuclear or radioactive wastes, the Group calls for the effective implementation of the Code of Practice on the IAEA International Transboundary Movement of Radioactive Waste as a means of enhancing the protection of all States from the dumping of radioactive wastes on their territories.

21. The Group of Non-Aligned States Parties to the Treaty recognizes that the primary responsibility for nuclear safety rests with individual States. The Group reaffirms the central role of IAEA in nuclear safety-related matters, including through the establishment of nuclear safety standards. The Group stresses that IAEA must retain centrality in this field, owing to its mandatory functions and long-standing expertise. The Group stresses that any possible review of nuclear safety standards at the global level must be carried out within IAEA in an inclusive,

gradual and transparent manner, with the guidance and participation of and in consultation with all member States, and shall incorporate the views of all member States. The Group also calls for the implementation of the Nuclear Safety Action Plan endorsed by the General Conference of IAEA in September 2011.

22. The Group of Non-Aligned States Parties to the Treaty emphasizes that measures and initiatives aimed at strengthening nuclear safety and nuclear security must not be used as a pretext or leverage to violate, deny or restrict the inalienable right of developing countries to develop research, production and use of nuclear energy for peaceful purposes without discrimination.

23. The Group of Non-Aligned States Parties to the Treaty emphasizes that non-proliferation must be pursued and implemented without exception through the strict observance of and adherence to IAEA comprehensive safeguards and to the Treaty as a condition for any cooperation in the nuclear area with States not party to the Treaty. In the view of the Group, supply arrangements for the transfer of source or special fissionable material or equipment or material specially designed or prepared for the processing, use or production of special fissionable material to non-nuclear-weapon States should require, as a necessary precondition, acceptance of IAEA full-scope safeguards and internationally legally binding commitments not to acquire nuclear weapons or other nuclear explosive devices.

24. In this regard, the Group of Non-Aligned States Parties to the Treaty underscores the strong call by the 2010 Review Conference of the Treaty that all States parties shall ensure that their nuclear-related exports do not directly or indirectly assist the development of nuclear weapons or other nuclear explosive devices, and that such exports are in full conformity with the objectives and purposes of the Treaty as stipulated particularly in its articles I, II and III, and with the decision on the principles and objectives of nuclear non-proliferation and disarmament adopted in 1995 by the Review and Extension Conference of the Treaty.

25. The Group of Non-Aligned States Parties to the Treaty once again reaffirms the inviolability of peaceful nuclear activities and that any attack or threat of attack against peaceful nuclear facilities, operational or under construction, poses a threat to international peace and security and a great danger to human beings and the environment and constitutes a grave violation of international law, the principles and purposes of the Charter of the United Nations and the regulations of IAEA. In this regard, the Group recognizes the need for a comprehensive multilaterally negotiated instrument prohibiting attacks or the threat of attacks on nuclear facilities devoted to peaceful uses of nuclear energy. Moreover, the Group strongly urges all States to undertake unequivocally, in accordance with the purpose and principles of the Charter of the United Nations, to refrain from attacks or the threat of attacks on nuclear facilities, operational or under construction, devoted to peaceful purposes.

26. The Group of Non-Aligned States Parties to the Treaty expresses its serious concern about certain unilateral, politically motivated restrictions and/or limitations posed on developing countries which seriously hamper the exercise of the inalienable rights of States parties to develop research, production and use of nuclear energy for peaceful purposes, and believes, in this regard, that interpretations in the application of safeguards shall not be used as a tool to that end. In the view of the Group, article III of the Treaty, while providing for the undertaking by each non-nuclear-weapon State to conclude safeguards agreements

with IAEA, is equally explicit in articulating that the implementation of such safeguards shall be in a manner designed to comply with article IV of the Treaty, and to avoid hampering the economic or technological development of the parties or international cooperation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes.

27. The Group of Non-Aligned States Parties to the Treaty, while stressing the importance of safeguards, underlines the essential responsibility of IAEA in maintaining and observing fully the principle of confidentiality regarding all information related to the implementation of safeguards in accordance with the Agency's statute and safeguards agreements. Since the Agency is the only organization that receives highly confidential and sensitive information on nuclear facilities of member States, and given the undesirable incidents of leaks of such information, the Group emphasizes that the confidentiality of such information shall be fully respected and that the regime, for its protection, needs to be highly strengthened. In the view of the Group, safeguards-related confidential information should not be provided in any way to any party not authorized by the Agency. The Group recalls IAEA General Conference resolution GC(57)/RES/13, paragraph 27, in which the IAEA Director General is urged to exercise the highest vigilance in ensuring the proper protection of classified safeguards information and requested to continue to review and update the established procedure for the protection of classified safeguards information within the Secretariat.

28. The Group of Non-Aligned States Parties to the Treaty is determined to propose, during the 2015 Review Process of the Treaty, measures required to ensure that the inalienable rights of all States parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination are fully protected.